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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)	
YOR920030056US1 (8728-607)	

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Application Number	Filed
10/630,959	July 30, 2003

First Named Inventor	
Bergman et al.	

Art Unit	Examiner
2192	Thuy Chan Dao

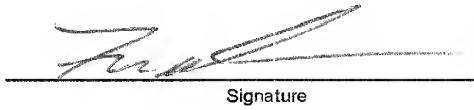
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

- [ ] applicant/inventor.
- [ ] assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)
- [X] attorney or agent of record. Registration number 43,584
- [ ] attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____



Signature

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516-692-8888

Telephone number

August 8, 2007

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

- [ ] *Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Bergman, et al.

Examiner: Dao, Thuy Chan

Serial No.: 10/630,959

Group: Art Unit 2192

Filed: July 30, 2003

Docket: YOR920030056US1 (8728-607)

For: **SYSTEMS AND METHODS FOR GENERATING AND DISTRIBUTING EXECUTABLE PROCEDURES FOR TECHNICAL DESK-SIDE SUPPORT**

Statement in Support of Pre-Appeal Brief Request for Review

This paper is being filed in support of Applicants' Pre-Appeal Brief Request for Review. A Notice of Appeal has been filed herewith in response to a Final Office Action mailed on May 8, 2007 finally rejecting claims 1-34. An After Final Amendment has been filed canceling claims 1-19 and thus, claims 20-34 are subject to this appeal. Applicants respectfully contend that the claim rejections set forth in the Final Office Action are clearly erroneous as a matter of fact and/or law. For purposes of this statement, Applicants will address the anticipation rejections of independent claims 20, 26 and 30.

Claim 20

In the Final Action, Claim 20 is rejected as being anticipated by Messinger (US Patent No. 7,000,187) and Bala (US Patent Application No. 2004/0130572). Claim 20 reads as follows:

A system for providing technical support, comprising:
a client device comprising an application for monitoring and recording a procedure that is performed using said client device and generating an execution trace representing an instance of said procedure;
a procedure trace repository for storing execution traces; and
a server for processing a plurality of execution traces associated with instances of an executed procedure to generate a reusable executable procedure, wherein said procedure can be automatically performed on the client by invoking the reusable executable procedure.

The Examiner has not demonstrated how any of the cited references Messinger or Bala teach or suggest *a server for processing a plurality of execution traces associated with instances*

of an executed procedure to generate a reusable executable procedure, wherein said procedure can be automatically performed on the client by invoking the reusable executable procedure.

With regard to Messinger, the Examiner relies on FIG. 1 and Col. 4, line 59 ~ Col 5, line 51 as teaching these features. However, the Examiner simply cites the claim language followed by citation to what the Examiner believes to be "relevant" sections of Messinger, while offering absolutely no supporting explanation as to the basis for such reliance. However, the Examiner's reliance on the cited sections of Messinger is clearly misplaced, as FIG. 1 and the cited sections clearly do not disclose or even remotely suggest *a server that processes a plurality of execution traces associated with instances of an executed procedure to generate a reusable procedure*, wherein in the context of claim 20, the execution traces are instances of a procedure that are generated by recording actions on a client device.

With regard to Bala, the Examiner relies on paragraphs 0048-0049 as teaching these features. Once again, the Examiner simply cites the claim language followed by citation to what the Examiner believes to be "relevant" sections of Bala, while offering absolutely no supporting explanation as to the basis for such reliance. However, the Examiner's reliance on the cited sections of Bala is clearly misplaced. Although Bala generally teaches in paragraph 0048 that a computer (110) may be part of a network that includes a remote computer (180), which may be a "server", the Examiner has utterly failed to show or attempt to explain how Bala teaches a client/server system as recited in claim 20, wherein *a server processes a plurality of execution traces associated with instances of an executed procedure to generate a reusable procedure*, wherein the execution traces are instances of a procedure that are generated by recording actions on a client device.

In short, the anticipation rejections of claim 20 are merely based on bald citations to glaringly irrelevant sections of Messinger and Bala, with no supporting explanations provided by the Examiner to justify the Examiner's reliance on the cited sections. In this regard, the Final Action fundamentally fails to present a *prima facie* showing of anticipation of claim 20.

Claim 26

In the Final Action, claim 26 is rejected as being anticipated by Horvitz (US Patent No. 6,260,035), Messinger, and Bala. Claim 26 reads as follows:

A program storage device readable by machine, tangibly embodying a program of instructions executable by the machine to perform method steps for generating a reusable executable procedure, the method steps comprising:

obtaining a plurality of execution traces, wherein each execution trace represents an execution instance of a procedure; and

processing said execution traces to create a reusable executable procedure associated with said procedure, wherein said procedure can be automatically performed by invoking the reusable executable procedure.

Horvitz does not teach or fairly suggest methods for generating a reusable executable procedure by processing aligned execution traces to create a reusable executable procedure that can be automatically performed by invoking the reusable executable procedure. In formulating the rejection, the Examiner relies on Horvitz's teachings (in FIG. 2, blocks 56-60, Col 7, lines 29-51, FIG. 8, blocks 112-118, Col. 14, lines 60-67) as teaching the claimed process of *obtaining a plurality of execution traces, wherein each execution trace represents an execution instance of a procedure.* Again, the Examiner offers no supporting explanation regarding the reliance on the cited sections, and the Examiner's reliance on the cited sections is unclear and seemingly misplaced on any reasonable level. In contrast, Horvitz teaches a process of monitoring and recording user atomic events when interacting with an application, for the purpose of providing intelligent user assistance. Horvitz teaches methods for observing and modeling user interaction behaviors to create models that enable the system to determine when a user experiences difficulties in using an application. The models are processed using inference engines to form and evaluate multiple hypotheses of what assistance a user may need when interacting with an application (see, e.g., Col. 6, lines 4-29; Col. 7, lines 29-67). The modeled event database (106) in FIG. 8 of Horvitz relates to a modeled event database definition (see Col. 15, lines 1-5, and Col 13, lines 30-65), but the "modeled events" as taught by Horvitz are not fairly characterized as being "reusable executable procedures" within the context of claim 26.

Moreover, Messinger does not teach (in FIG. 8, block 380, 385 and Col. 9, lines 37-65) the process of *obtaining a plurality of execution traces, wherein each execution trace represents an execution instance of a procedure*; and (in FIG. 9-12) Col. 10, line 44 Col. 11, line 56) the claimed *processing said execution traces to create a reusable executable procedure associated with said procedure, wherein said procedure can be automatically performed by invoking the reusable executable procedure.* Although Messinger arguably teaches a process of recording a new task sequence (in block 385 of FIG. 8), even assuming that the process of recording a new task sequence is an execution trace that represents an execution instance of a procedure, the Examiner has failed to show how Messinger *teaches processing a plurality of executions traces associated with a given procedure to generate a reusable executable procedure associated with the given procedure based on the plurality of execution traces.* Indeed, the Examiner's reliance on Col. 10, line 44 ~ Col. 11, line 56 as teaching this claim feature is wholly misplaced. The Examiner has not explained (and cannot explain) how the "smurf detection" has any relation,

whatsoever, to the claimed process of *teaches processing a plurality of executions traces associated with a given procedure to generate a reusable executable procedure associated with the given procedure based on the plurality of execution traces.* The anticipation rejection of claim 26 based on Messinger is clearly erroneous as a matter of fact.

Moreover, Bala does not teach the process of *obtaining a plurality of execution traces, wherein each execution trace represents an execution instance of a procedure*; and *processing said execution traces to create a reusable executable procedure associated with said procedure, wherein said procedure can be automatically performed by invoking the reusable executable procedure.* The Examiner asserts, once again without explanation, that Bala teaches in FIG. 4, blocks 422-476 and paragraphs 0056-0057 the process of generating a reusable executable procedure associated with a given procedure by processing a plurality of execution traces associated with the given procedure. However, the Examiner's characterization of Bala in this regard is simply erroneous, and such mischaracterization is readily gleanable by any reasonable person reading the supporting paragraphs 0056-0057.

Claim 30

In the Final Action, claim 30 is rejected as being anticipated by Mayuzumi (US Patent No. 6,134,644). Claim 30 reads as follows:

> *A program storage device readable by machine, tangibly embodying a program of instructions executable by the machine to perform method steps for executing a reusable procedure, the method steps comprising:*
> *launching a reusable executable procedure;*
> *automatically executing procedure steps associated with said reusable executable procedure; and*
> *relinquishing control of execution of said reusable procedure to a user, when a next step of said reusable executable procedure cannot be successfully executed.*

The Examiner's anticipation rejection of claim 30 is based on a gross mischaracterization and misunderstanding of the teachings of Mayuzumi as applied to claim 30. There is no reasonable basis, whatsoever, as construing Mayuzumi (FIG. 16 and supporting explanation in Col 20, lines 15-29 and Col. 21, lines 1-17) as teaching the claimed process of *launching a reusable executable procedure, automatically executing procedure steps associated with said reusable executable procedure, and relinquishing control of execution of said reusable procedure to a user, when a next step of said reusable executable procedure cannot be successfully executed.*

On a fundamental level, as explained above, Mayuzumi does not specifically teach a "reusable executable procedure' within the eontext of the claimed inventions. Mayuzumi teaches a method for **dynamically generating a sequence of data parts based on the type of help information needed at a given time** (i.e., depending on a given event or combination of events) (see, e.g., Col. 19, lines 35 – Col. 20, linc 9). In this regard, the sequence of data parts is not maintained as "reusable executable procedures" per se. The Examiner conveniently ignores this clear teaching and blindly and erroneously eonstrues, in incorrect context, Mayumi's teaching (in Fig. 16, Col. 20, lines 15-29) of a "procedure of a control process carried out by the multi-media control unit (47) as being the same as "launching a reusable executable procedure". Although Mayuzumi arguably teaches execution process of a help procedure in FIG. 16, the procedure is **clearly not persistently stored as a reusable procedure**.

Moreover, Mayuzumi teaches in FIG. 16 a method in which help screens are presented to a user illustrating a process flow for sequential work that can be performed to recover from an error (see, Col. 20, lines 52-67, FIG. 15). In this regard, the proeess flows are not automatically executed as part of a reusable executable procedure, but are merely dynamically generated based on one or more events, and then displayed to provide user guidance in manually performing a given task as suggested in the displayed process flow. For at least these reasons, the Examiner has clearly failed to present a *prima facie* showing of anticipation of claim 30 based on Mayuzumi.

Respectfully submitted,

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